

# STORM LLP

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June 2, 2006

**VIA FACSIMILE: 1-571-273-6500**

Commissioner for Patents  
Attn: Refund Request Department  
P. O. Box 1450  
Alexandria, Virginia 22313-1450

Re: Request for Refund  
U.S. Serial No.: 09/481,126  
Our Ref. No.: TEQ 01117 PTUS

Dear Sir or Madam:

On April 6, 2006, Applicant filed an Appeal Brief, the Appeal Brief Fee of two hundred fifty dollars (\$250.00), and a fee for a one-month extension of sixty dollars (\$60.00), as indicated on the enclosed date stamped postcard for the Appeal Brief. However, the U.S. Patent Office has charged Deposit Account 50-2180 an additional one hundred sixty-five dollars (\$165.00) (for a two-month extension fee), as indicated on the enclosed copy of the Monthly Statement of Deposition Account for Account No. 50-2180. Applicant's representative respectfully asserts that this charge to the above-mentioned Deposit Account is incorrect, and requests that the additional one hundred sixty-five dollars (\$165.00) be refunded.

According to the Notice of Panel Decision from Pre-Appeal Brief Review, which is also enclosed and which was mailed on February 6, 2006, Item 2 was marked and reads as follows:

2.  Proceed to Board of Patent Appeals and Interferences – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.138 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

**STORM LLP**

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June 2, 2006  
Page 2

To reiterate, this form states that "[t]he time period for filing an appeal brief will be reset to be one month from the mailing date of this decision or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater." (Emphasis added.)

The PTO indicated on the date stamped postcard for the Notice of Appeal, which is enclosed, that the date of receipt of the Notice of Appeal was December 19, 2005. Therefore, the two-month time period from the date of receipt of the Notice of Appeal would be February 19, 2006, whereas one month from the date of mailing of the Notice of Panel Decision from Pre-Appeal Brief Review would be March 6, 2006. Thus, the Appeal Brief would have been timely filed on or before March 6, 2006, and an Appeal Brief filed on or before April 6, 2006 (which is the case here) would incur a one-month extension of time fee. It is, therefore, clear that the U.S. Patent Office miscalculated the due date for the Appeal Brief filed on April 6, 2006.

Accordingly, in light of the above details and enclosed documents showing proof of the miscalculated due date, please credit our Deposit Account No. 50-2180 (STORM LLP) with the amount of one hundred sixty-five dollars (\$165.00).

Sincerely,



John J. Patti  
Registration No. 57,191

Enclosures:

- (1) Copy of Monthly Statement of Deposition Account for Account No. 50-2180;
- (2) Date-stamped postcard for the Notice of Appeal;
- (3) Notice of Panel Decision from Pre-Appeal Brief Review;
- (4) Date-stamped postcard for the Appeal Brief;

Application Number: 	Application/Control No. 09/481,126	Ap. Art(s)/Patent under Reexamination ELLIOTT, DOUGLAS R.
	Harish T. Dass	Art Unit 3828
Document Code - AP.PRE.DEC		

## Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed 12-19-2005.

1.  **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- The request does not include reasons why a review is appropriate.
- A proposed amendment is included with the Pre-Appeal Brief request.
- Other: \_\_\_\_\_

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2.  **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

The panel has determined the status of the claim(s) is as follows:  
 Claim(s) allowed: \_\_\_\_\_  
 Claim(s) objected to: \_\_\_\_\_  
 Claim(s) rejected: 1-6.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_

3.  **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4.  **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) Hyung S. Seoah. 

(3) Harish T. Dass. 

(2) Frenzy Polivill. 

(4) \_\_\_\_\_

MAILING DATE: April 16, 2006

APPLICANT: DOUG ELLIOTT

S/N/PAT NO.: 09/1481,126

FILING DATE: Jan. 11, 2000

TITLE: METHOD FOR OBTAINING + Allocating  
INVESTMENT

DOCKET NO.: TEG 1117P14S

EXPRESS MAIL NO. \_\_\_\_\_ CERT. OF MAIL

The Official Dated Stamp Hereon by the U.S. Patent and Trademark Office  
 Acknowledges Receipt of the following:

<input type="checkbox"/> New Application (type: <u>PE</u> )	<input type="checkbox"/> Response to Missing Parts
Specs.-pgs. <u>4</u>	IDS w/refs. _____ w/o ref. _____
Claims-pgs. <u>1</u>	Issue Fee \$ <u>1</u>
Abstract-pgs. <u>1</u>	Check(s) S <u>310</u> - <input type="checkbox"/> Appeal Brief fee <u>1</u> <input type="checkbox"/> Interf. Ext. fee
Formal Dwgs.-pgs. <u>1</u>	Other a. <u>Appeal Brief</u> b. _____ c. _____ d. _____
<input type="checkbox"/> Transmittal Sheet	
<input type="checkbox"/> Formal Dwgs. <u>1</u>	
<input type="checkbox"/> Declaration - pgs _____	
<input type="checkbox"/> Assignment - pg _____	
<input type="checkbox"/> Amendment/ Response	

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Docketed by AS 4-18-06



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APPLICATION NO.	PILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/481,126	01/11/2000	Douglas R. Elliott	TEQ11112002	5216
32233	7590	10/12/2005	PTUS	EXAMINER
STORM L.L.P. BANK OF AMERICA PLAZA 901 MAIN STREET, SUITE 7100 DALLAS, TX 75202			DASS, MARSH T	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 10/12/2005

2 mos. 12/12/05  
3 mos. 4/12/06  
6 mos. 4/12/06

Please find below and/or attached an Office communication concerning this application or proceeding.

Docketed by 10/12/05

PTO-90C (Rev. 10/03)

PAGE 9/9 \* RCVD AT 6/2/2006 11:46:09 AM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-13 \* DNIS:2736500 \* CSID: \* DURATION (mm:ss):02-26

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## Facsimile Information Sheet

DATE/TIME: June 2, 2006, 10:38 AM

FROM: John J. Patti

TO:

RECIPIENT	COMPANY	FAX NUMBER
Refund Request Department	U.S. Patent Office	1-571-273-6500

OUR REF NO: JOHN 02962 PTUS

TOTAL NUMBER OF PAGES (including this sheet): 8

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Adjustment date: 06/19/2006 SDIRETAA  
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MONTHLY STATEMENT  
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To replenish your deposit account, detach and return top portion with  
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BANK OF AMERICA PLAZA  
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DALLAS TX 75202

FINA

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502180
Date
4-28-06
Page
1

PLEASE SEND REMITTANCES TO:  
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Chicago, IL 60673

DATE POSTED MO. DAY YR.	CONTROL NO.	DESCRIPTION (Serial, Patent, TM, Order)	DOCKET NO.	FEES CODE	CHARGES/ CREDITS	BALANCE
4/14/06	1	09481126	10200117 PTUS	2252	165.00	2109.00
4/14/06	16	094812126	ELITE 02962 PTUS	2251	60.00	2049.00
4/19/06	22	100000446	JOHN 02962 PTUS	2401	250.00	1799.00
4/23/06	7	100000446	JOHN 02962 PTUS	2401	250.00	1549.00

The "Received" stamp of the Patent and Trademark Office inscribed below acknowledges the filing of:

NEW APPLICATION  
 DECLARATION/POA  
 ASSIGNMENT  
 INFORMAL/FORMAL OWS, \_\_\_\_\_ PAGES  
 CONT/CIP/FWC APPN  
 DIVISIONAL APPN  
 AMENDMENT  
 C/OT, \_\_\_\_\_ MTHS

NOTICE OF APPEAL  
 ISSUE FEE \$ \_\_\_\_\_ COPIES  
 PCT REG/TRANS. LTR  
 PCT FEE CALCULATION SHEET  
 CHECK # 250  
 OTHER Notice of Appeal  
Pre-Appeal Brief Request

NAME OF INVENTOR(S)/APPLICANT:

Douglas Elliott

TITLE OF INVENTION:

METHOD FOR OBTAINING . . .

CLIENT:

TEQ FILE NO. 111797US

Mailed: 12-12-05 EXPRESS

Due:

12-12-05

ATTY/ADP/RG: JJD

CERTIFICATE  
OF MAILING IN

SERIAL NO. AND RECEIPT DATE  
10/09/2005, 126



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DEC 27 2005

Docketed by

12/29/05

PAGE 5/9 \* RCVD AT 6/2/2006 11:46:09 AM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-1/3 \* DNIS:2736500 \* CSID: \* DURATION (mm:ss):02-26

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APPLICATION NO.	FILED DATE	FIRST NAME & INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/421,126	01/11/2006	Douglas R. Elliott	TBQ 1117602- PTUS	5216
32333	7390	02/06/2006		EXAMINER
STORM L.L.P. BANK OF AMERICA PLAZA 901 MAIN STREET, SUITE 7100 DALLAS, TX 75202				DASS, HARISH T
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 02/06/2006

3

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2/8/06

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